THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.18147 of 2007

Dated: 28-08-2007

Between:
H. Rajagopal and others.

…. PETITIONERS

AND

The Tahsildar, Amarapuram Mandal, Anantapur District.

…. RESPONDENT

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.18147 of 2007

ORDER:

The three petitioners are the sons of G.Hanumantha Gowd. It is their case that they are in possession of land in survey No.879 to an extent of Acs.15.00, Acs.12.00 and Acs.12.00, respectively. They also state that it is not an assigned land. They allege that the land in survey No.879 admeasuring Acs.40.57 was granted in the year 1928 to Madiga Gudda Halli Siddappa, who alienated the same in 1932 in favour of Boya Raja. The legal heirs of Boya Raja alienated the land under registered document, dated 25.11.1991, in favour of the grand mother and mother of the petitioners. Therefore, they assert that the land does not attract the provisions of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977. Nonetheless, the respondents issued three separate notices in Form I to the petitioners calling upon them to show cause as to why the lands in their possession should not be resumed after evicting them summarily. The petitioners submitted explanation on 24.6.2007. They also filed an application before the respondent under Right to Information Act, 2005 requesting for certified copies of the proceedings in D.A.922/38, under which, originally the land was granted in favour of Gudda Halli Siddappa. By an endorsement, dated 19.7.2007, the respondent informed the first petitioner that the file relating to D.A.No.922/38 is not available in the records of the Office of Tahsildar. Therefore, they filed instant writ petition before this Court assailing the impugned show cause notice.

Learned counsel for the petitioners submits that the land was assigned in favour of Madiga Guda Halli Siddappa, and therefore, the condition of non-alienability has no application to the case on hand. According to the learned counsel, the impugned notices are issued without jurisdiction and therefore, a writ petition would lie.

It is a settled proposition of law that whatever be the defence, a

writ petition against a show cause notice would not lie. The petitioners have already submitted explanation raising all grounds seeking dropping of the action and therefore the remedy is to pursue the matter with the respondent. If any adverse order is passed against them, they still have an appeal under Section 4-A of the Act before the Revenue Divisional Officer.

Therefore, without expressing any opinion on the merits of the matter, the writ petition is disposed of. No costs.

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(V.V.S. RAO,J)

28th August, 2007

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